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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/654,933	09/01/2000	Jay S. Walker	96-108XX	7050

22927 7590 12/09/2004

WALKER DIGITAL
FIVE HIGH RIDGE PARK
STAMFORD, CT 06905

EXAMINER

COLBERT, ELLA

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Interview Summary

Application No.

09/654,933

Applicant(s)

WALKER ET AL.

Examiner

Ella Colbert

Art Unit

3624

All participants (applicant, applicant's representative, PTO personnel):

(1) Ella Colbert.

(3) _____.

(2) Mr. Mike Downs.

(4) _____.

Date of Interview: 30 November 2004.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: 49-74.

Identification of prior art discussed: Cunningham and Weiss.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicants' Representative, Mr. Mike Downs, started the interview by requesting clarification of the claims rejected under 35 USC 101 in item I of the interview agenda. The Examiner stated there had been an error and that only claims 49-60, 62-72 and 74 are rejected under 35 USC 101 because there is a lack of technology (a machine or computer) to perform the method steps. In item II, the proposed amended claims were presented and the Examiner stated that a computer or machine was needed in the preamble of the claims to perform the method steps. In item IV, claim 49 was discussed with regard to whether the reference teaches a payment, a parameter, and a first and second value. The Examiner stated that the argument would be considered and the reference reviewed in more detail to determine if there was anything in the reference that has the claim limitation elements of claim 49. In item V, the Cunningham reference was discussed with respect to claim 60, 62, 64, 66, 78, 80, 82, and 84. Item VI was discussed in reference to the Weiss reference and the argument that Weiss does not teach or suggest determining a payment to offer to the customer in exchange for modifying the at least one term. The Examiner stated that the reference and the argument would be considered. In item VII, Mr. Downs requested clarification regarding the indefinite terms raised in the response to arguments. The Examiner explained that it was unclear what the Applicants' meant by parameter and value and the terms had been given a very broad interpretation. In item VIII, Mr. Downs requested clarification of a dependent claim with technology being rejected under 101 regardless whether the base claim has statutory subject matter. The Examiner stated that the 101 panel would have to be consulted because the situation had never been encountered. In item IX, Mr. Downs requested clarification regarding claims 52 and 53 in reference to the example as to how the claim should be rewritten to eliminate the 35 USC 101 issue. The Examiner explained that Mr. Downs was misinterpreting the "database" to be statutory and directed to the "technological arts" and that the claim needs a computerized method and a processor. The Examiner asked the Applicants' Representative, Mr. Downs to point out in the claim the inventive concept. Mr. Downs referred the Examiner to the last step of claim 49 in particular "a customer associated with the credit account ... the offer comprises an offer to provide payment to the customer if the customer agrees to the modification parameter" and claim 63 reading "... that a customer associated with a credit account is dissatisfied with the credit account; determining at least one term of the credit account; and presenting the customer with an offer to modify the at least one term of the credit account".